

Senate Bill 471

By: Senators Harp of the 29th, Hamrick of the 30th, Hill of the 32nd and Ramsey, Sr. of the 43rd

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 8 of Title 19 of the Official Code of Georgia Annotated, relating to  
2 adoption, so as to require a home study by an evaluator prior to the placement of a child into  
3 the home of adoptive parents by a third party who is neither a stepparent nor a relative and  
4 for such study to recommend placement; to provide for definitions; to change certain  
5 provisions relating to surrender or termination of parental or guardian's rights where a child  
6 is to be adopted by a third party; to change provisions relating to the filing and contents of  
7 a petition for adoption; to change provisions relating to the timing of an adoption hearing,  
8 the required records, and filing; to change the contents of the form used for surrender of  
9 rights for adoption; to provide for related matters; to provide for an effective date and  
10 applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 8 of Title 19 of the Official Code of Georgia Annotated, relating to adoption, is  
14 amended by revising Code Section 19-8-1, relating to definitions, by adding three new  
15 paragraphs to read as follows:

16 "(4.1) 'Evaluator' means the person or agency that conducts a home study. An evaluator  
17 shall be a licensed child-placing agency, the department, or a licensed professional with  
18 at least two years of adoption related professional experience, including a licensed  
19 clinical social worker, licensed master social worker, licensed marriage and family  
20 therapist, or licensed professional counselor."

21 "(5.1) 'Home study' means an evaluation by an evaluator of the petitioner's home  
22 environment for the purpose of determining the suitability of the environment as a  
23 prospective adoptive home for a child. Such evaluation shall consider the petitioner's  
24 physical health, emotional maturity, financial circumstances, family, and social  
25 background and shall conform to the guidelines established by the department's Office of  
26 Residential Child Care.

27 (5.2) 'Home study report' means the written report generated as a result of the home  
 28 study."

29 **SECTION 2.**

30 Said chapter is further amended by revising subsection (a) of Code Section 19-8-5, relating  
 31 to surrender or termination of parental or guardian's rights where a child is to be adopted by  
 32 a third party, as follows:

33 "(a) Except as otherwise authorized in this chapter, a child who has any living parent or  
 34 guardian may be adopted by a third party who is neither the stepparent nor relative of that  
 35 child, as described in subsection (a) of Code Sections 19-8-6 and 19-8-7, only if each such  
 36 living parent and each such guardian has voluntarily and in writing surrendered all of his  
 37 or her rights to ~~the~~ such child to that third ~~person~~ party for the purpose of enabling that  
 38 person ~~third party~~ to adopt ~~the~~ such child. Except as provided in subsection (m) of this  
 39 Code section, no child shall be placed with a third party for purposes of adoption unless  
 40 prior to the date of placement a home study shall have been completed, and the home study  
 41 report recommends placement in such third party's home."

42 **SECTION 3.**

43 Said chapter is further amended by adding new subsections to Code Section 19-8-5, relating  
 44 to surrender or termination of parental or guardian's rights where a child is to be adopted by  
 45 a third party, to read as follows:

46 "(m) If the home study for a third-party adoption or for an adoption involving a  
 47 preadoptive family having guardianship of a child who is to be adopted has not occurred  
 48 prior to the date of placement, then the third party shall, within 30 days of the filing of the  
 49 petition for adoption, file a petition with the court seeking an order authorizing placement  
 50 of such child prior to the completion of the home study. Such petition shall identify the  
 51 evaluator that the petitioner has selected to perform the home study. A copy of each  
 52 surrender as provided in subsection (a) of this Code section shall be filed as an exhibit to  
 53 the petition filed pursuant to this subsection.

54 (n) The court may grant the petition for placement prior to the completion of a home study  
 55 if the court finds by a preponderance of the evidence that such placement is in the best  
 56 interest of the child.

57 (o) If the court grants the petition for placement prior to the completion of a home study  
 58 and authorizes placement of a child prior to the completion of the home study, then:

59 (1) Such child shall be permitted to remain in the home of the third party with whom the  
 60 parent or guardian placed such child pending further order of the court;

61 (2) A copy of the order authorizing placement of such child prior to the completion of  
62 the home study shall be delivered to the department and the evaluator selected to perform  
63 the home study by the clerk of the court within 15 days of the date of the entry of such  
64 order;

65 (3) The home study, if not already in process, shall be initiated by the evaluator selected  
66 by the petitioner within ten days of such evaluator's receipt of the court's order;

67 (4) Once initiated, the home study shall be completed within 60 days of initiation, and  
68 the evaluator shall cause a copy of the home study report to be filed with the court and  
69 shall provide a copy of such report to the petitioner; and

70 (5) A copy of the court order authorizing the placement of such child pursuant to this  
71 Code section shall be included with the petition for adoption that is filed with the court.

72 (p) If the court denies the petition for placement prior to the completion of a home study  
73 and the petitioner decides not to pursue the adoption of the child and dismisses the action  
74 with prejudice, then the court shall commit the child to the custody of the birth parent, a  
75 child-placing agency, or the department as specified in the written surrender as provided  
76 in subsection (c) of Code Section 19-8-26, or, in the absence of a provision in the written  
77 surrender regarding the disposition of the child, in the event the petitioner does not  
78 successfully complete the adoption of the child, the court shall commit the child to the  
79 custody of a child-placing agency willing to accept the child for placement for adoption or  
80 to the department for placement for adoption.

81 (q) If the court denies the petition for placement prior to the completion of a home study  
82 and within ten days of the entry of such order the petitioner files a notice with the court  
83 indicating that the petitioner desires to pursue the adoption of the child, then the court shall  
84 order that:

85 (1) The evaluator selected by the petitioner to perform the home study shall initiate the  
86 home study within ten days of such agency's receipt of the court's order;

87 (2) The evaluator shall file the home study report and shall provide a copy of each such  
88 report to the petitioner;

89 (3) The evaluator shall complete the home study within 60 days of initiation unless good  
90 cause is shown why a longer period for completion of the home study is needed; and

91 (4) The clerk of the court shall serve the department and the evaluator selected to  
92 perform the home study with a copy of the order requiring the home study to be  
93 conducted within 15 days of the date of the entry of such order.

94 (r) If the evaluator's home study report does not recommend placement of the child for  
95 adoption with the petitioner, then the court shall within 30 days of receipt of the home  
96 study report hold a hearing to determine whether the court should either permit the  
97 placement to continue and permit the petitioner to file a petition for adoption of the child

98 or remove the child from the petitioner's home and commit the child to the custody of the  
 99 birth parent, an evaluator, or the department as specified in the written surrender as  
 100 provided in subsection (c) of Code Section 19-8-26, or, in the absence of a provision in the  
 101 written surrender regarding the disposition of the child, in the event the petitioner does not  
 102 successfully complete the adoption of the child, the court shall commit the child to the  
 103 custody of an evaluator willing to accept the child for placement for adoption or to the  
 104 department for placement for adoption.

105 (s) If the court denies the petition for placement prior to the completion of a home study,  
 106 the petitioner may appeal the ruling as provided by law. If the petitioner files an appeal, the  
 107 court shall appoint a guardian ad litem for the child who shall represent the best interest of  
 108 such child."

#### 109 SECTION 4.

110 Said chapter is further amended by revising paragraph (3) of subsection (a) of Code Section  
 111 19-8-13, relating to the filing and content of the petition, as follows:

112 "(3) Where the adoption is pursuant to subsection (a) of Code Section 19-8-5, the  
 113 following shall be provided or attached or its absence explained when the petition is filed:

114 (A) The written voluntary surrender of each parent or guardian specified in  
 115 subsection (e) of Code Section 19-8-5;

116 (B) The written acknowledgment of surrender specified in subsection (f) of Code  
 117 Section 19-8-5;

118 (C) The affidavits specified in subsections (g) and (h) of Code Section 19-8-5;

119 (D) Allegations of compliance with Code Section 19-8-12;

120 (E) Allegations of compliance with Chapter 4 of Title 39, relating to the Interstate  
 121 Compact on the Placement of Children;

122 (F) The accounting required by ~~the provisions of~~ subsection (c) of this Code section;

123 (G) Copies of appropriate certificates or forms verifying allegations contained in the  
 124 petition as to guardianship of the child ~~sought to be adopted~~, the marriage of each  
 125 petitioner, the divorce or death of each parent of the child ~~sought to be adopted~~, and  
 126 compliance with Chapter 4 of Title 39, relating to the Interstate Compact on the  
 127 Placement of Children; ~~and~~

128 (H) A completed form containing background information regarding the child to be  
 129 adopted, as required by the adoption unit of the department; and

130 (I) A copy of the home study report or a copy of the order issued permitting the child  
 131 to remain in the petitioner's home pending the completion of the home study."

132 **SECTION 5.**

133 Said chapter is further amended by revising subsections (f), (g), and (h) of Code Section  
 134 19-8-14, relating to timing of adoption hearing, required records, and filing, as follows:

135 "(f) The court in the child's best interest may grant such expedited hearings or continuances  
 136 as may be necessary for completion of applicable notice requirements, investigations, a  
 137 home study, and home study reports or for other good cause shown.

138 (g) Copies of the petition; and all documents filed in connection therewith, including, but  
 139 not limited to, the order on the petition for placement prior to the completion of a home  
 140 study filed pursuant to subsection (m) of Code Section 19-8-5, the order fixing the date  
 141 upon which the petition shall be considered, and all exhibits, surrenders, or certificates  
 142 required by this chapter, shall be forwarded by the clerk to the department within 15 days  
 143 after the date of the filing of the petition for adoption.

144 (h) Copies of the petition, the order fixing the date upon which the petition shall be  
 145 considered, and all exhibits, surrenders, or certificates ~~required by this chapter~~ filed in  
 146 support of the petition shall be forwarded by the clerk to the ~~child-placing agency or other~~  
 147 ~~agent appointed by the court pursuant to the provisions of Code Section 19-8-16~~ evaluator  
 148 that conducted the home study within 15 days after the date of the filing of the petition for  
 149 adoption; ~~together with a request that a report and investigation be made as required by~~  
 150 ~~law."~~

151 **SECTION 6.**

152 Said chapter is further amended by revising subsection (c) of Code Section 19-8-26, relating  
 153 to how surrender of parental rights executed, how and when surrender may be withdrawn,  
 154 and forms, as follows:

155 "(c) The surrender of rights by a parent or guardian pursuant to paragraph (1) of subsection  
 156 (e) of Code Section 19-8-5 shall conform substantially to the following form:

157 **SURRENDER OF RIGHTS**158 **FINAL RELEASE FOR ADOPTION**159 **NOTICE TO PARENT OR GUARDIAN:**

160 This is an important legal document and by signing it you are surrendering all of your  
 161 right, title, and claim to the child identified herein; so as to facilitate the child's placement  
 162 for adoption. You are to receive a copy of this document and as explained below have  
 163 the right to withdraw your surrender within ten days from the date you sign it.

164

165 I, the undersigned, being solicitous that my (male) (female) child, born (insert name of  
 166 child), on (insert birthdate of child), should receive the benefits and advantages of a good  
 167 home, to the end that (she) (he) may be fitted for the requirements of life, consent to this  
 168 surrender.

169 I, the undersigned, (insert relationship to child) of the aforesaid child, do hereby surrender  
 170 the child to (insert name, surname not required, of each person to whom surrender is  
 171 made), PROVIDED that each such person is named as petitioner in a petition for  
 172 adoption of the child filed in accordance with Article 1 of Chapter 8 of Title 19 of the  
 173 Official Code of Georgia Annotated within 60 days from the date hereof. Furthermore,  
 174 I promise not to interfere in the management of the child in any respect whatever; and,  
 175 in consideration of the benefits guaranteed by (insert name, surname not required, of each  
 176 person to whom surrender is made) in thus providing for the child, I do relinquish all  
 177 right, title, and claim to the child herein named, it being my wish, intent, and purpose to  
 178 relinquish absolutely all parental control over the child.

179 It is also my wish, intent, and purpose that if each such person is not named as petitioner  
 180 in a petition for adoption as provided for above within the 60 day period, other than for  
 181 excusable neglect, or, if said petition for adoption is filed within 60 days but the adoption  
 182 action is dismissed with prejudice or otherwise concluded without an order declaring the  
 183 child to be the adopted child of each such person, then I do hereby surrender the child as  
 184 follows:

185 (Mark one of the following as chosen)

186  I wish the child returned to me, and I expressly acknowledge that this provision  
 187 applies only to the limited circumstance that the child is not adopted by the person or  
 188 persons designated herein and further that this provision does not impair the validity,  
 189 absolute finality, or totality of this surrender under any circumstance other than the  
 190 failure of the designated person or persons to adopt the child and that no other provision  
 191 of this surrender impairs the validity, absolute finality, or totality of this surrender once  
 192 the revocation period has elapsed; or

193  I surrender the child to (insert name of designated licensed child-placing agency),  
 194 a licensed ~~child-placing agency~~ evaluator, for placement for adoption; or

195  I surrender the child to the Department of Human Services, as provided by  
 196 subsection (k) of Code Section 19-8-5, for placement for adoption; and (insert name of  
 197 designated licensed child-placing agency) or the Department of Human Services may  
 198 petition the superior court for custody of the child in accordance with the terms of this  
 199 surrender.

200 Furthermore, I hereby agree that the child is to be adopted either by each person named  
 201 above or by any other such person as may be chosen by the (insert name of designated

202 licensed child-placing agency) or the Department of Human Services and I do expressly  
203 waive any other notice or service in any of the legal proceedings for the adoption of the  
204 child.

205 Furthermore, I understand that under Georgia law, unless each person named above  
206 secures in a timely manner approval of the court for this placement, a current home study  
207 is required to be completed on the home of each person named above prior to the  
208 placement of a child with the persons named above, and such home study must  
209 recommend placement of a child with the persons named above.

210 Furthermore, I understand that under Georgia law, an agent appointed by the court is  
211 required to conduct an investigation and render a report to the court in connection with  
212 the legal proceeding for the legal adoption of the child, and I hereby agree to cooperate  
213 fully with such agent in the conduct of this investigation.

214 Furthermore, I hereby certify that I have received a copy of this document and that I  
215 understand I may only withdraw this surrender by giving written notice, delivered in  
216 person or mailed by registered mail or statutory overnight delivery, to (insert name and  
217 address of agent of each person to whom surrender is made) within ten days from the date  
218 hereof; that the ten days shall be counted consecutively beginning with the day  
219 immediately following the date hereof; provided, however, that if the tenth day falls on  
220 a Saturday, Sunday, or legal holiday, then the last day on which the surrender may be  
221 withdrawn shall be the next day that is not a Saturday, Sunday, or legal holiday; and I  
222 understand that it may NOT be withdrawn thereafter.

223 Furthermore, I hereby certify that I have not been subjected to any duress or undue  
224 pressure in the execution of this surrender document and do so freely and voluntarily.

225 Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

226 \_\_\_\_\_ (SEAL)  
227 (Parent or guardian)

228 \_\_\_\_\_

229 Unofficial witness

230 Sworn to and subscribed

231 before me this \_\_\_\_\_

232 day of \_\_\_\_\_, \_\_\_\_\_.

233 \_\_\_\_\_

234 Notary public (SEAL)

235 My commission expires \_\_\_\_\_."

236 **SECTION 7.**

237 This Act shall become effective on July 1, 2010, and shall apply to all petitions for adoption  
238 filed on or after that date.

239 **SECTION 8.**

240 All laws and parts of laws in conflict with this Act are repealed.